



Australian
Competition &
Consumer
Commission

GPO Box 3131 Canberra ACT 2601
23 Marcus Clarke Street Canberra ACT
tel: (02) 6243 1111 fax: (02) 6243 1199
www.accc.gov.au

NEWS RELEASE

ALLERGY TREATMENT DECLARED MISLEADING

An allergy treatment provider has been found to have misled consumers about the efficacy of its treatments.

Allergy Pathway Pty Ltd, formerly known as Advanced Allergy Elimination Pty Ltd, was the subject of Australian Competition and Consumer Commission action in the Federal Court, Melbourne.

ACCC chairman, Graeme Samuel said an allergic reaction can be severe and in some cases may lead to death.

"With this in mind, claiming to be able to test for, identify and treat a person's allergies and underplaying the associated risks is fraught with danger," Mr Samuel said.

The court has made orders by consent and declared that the company engaged in false, misleading and deceptive conduct by representing that:

- it could test for and identify an allergen for a person and/or a substance to which a person is allergic (**the company could not do this**)
- it could cure or eliminate virtually all allergies or allergic reactions (**the company could not cure or eliminate any allergies or any allergic reactions**)
- it could successfully treat a person's allergies or allergic reactions (**the company could not do this**) and
- its treatment was safe and/or low risk and after treatment it was safe for a person to have contact with the substance or allergen to which the person had an adverse reaction (**when there were risks associated with the treatment for persons with certain allergies including food allergies**).

The court declared that the company's director, Mr Paul Keir, was knowingly concerned in or a party to the company's contraventions. The company and Mr Keir gave undertakings to the court not to engage in similar conduct for a period of three years.

The company also must send letters to current and former customers detailing the contravening conduct and the outcome of the ACCC's action.

The court also ordered the company to publish corrective advertising notices in newspapers, in its clinics and on its website (www.aaeclinics.com.au).

In making this order, Justice Finkelstein considered publication of the corrective advertisements was particularly important.

Justice Finkelstein observed, "The impugned statements have the potential to cause real harm. Persons with allergies are best treated by medical practitioners. Further, clients suffering from allergies and taking the treatment provided by AAE may wrongly believe the treatment is effective when it is not. Some treatments may even be dangerous to a client. This state of affairs must be remedied and the provision of corrective advertising is an appropriate means to achieve that result."

Mr Samuel said traders making claims that can't be substantiated can jeopardise public health and safety and run a number of risks, not least of which may be rigorous enforcement action by the ACCC, which may in appropriate cases, involve a criminal prosecution.

This is the ACCC's second successful outcome this week in the area of health claims. Earlier this week the court found two website operators had engaged in misleading conduct in selling medical eBooks which claimed to cure a range of conditions.

Media inquiries:

Mr Graeme Samuel, chairman, (03) 9290 1812 or 0408 335 555

Mr Brent Rebecca, media unit, (02) 6243 1317 or 0408 995 408

General inquiries: Infocentre 1300 302 502

NR 210/09

27 August 2009